

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl.Misc. No.35885-M of 2007

Date of Decision:- 17.09.2007

Anoop Singh

....Petitioner(s)

through

Mr.Sanjeev Sheokand, Advocate

vs.

State of Haryana

....Respondent(s)

through

Mr.Tarun Aggarwal, Sr.DAG, Haryana.

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

SURYA KANT, J. (ORAL)

The prayer in this petition is to release the petitioner on regular bail in F.I.R.No.42 dated 8.2.2006 under Sections 363/366/376 IPC registered at Police Station, Bhuna, District Fatehabad.

The above-stated F.I.R. has been registered on the statement of Raja Ram son of Kanshi Ram-the complainant, who, *inter alia*, has alleged that his daughter Kalawati, aged about 14 years, had gone to the house of her maternal grand-father where the petitioner, who was allegedly working as a driver on the vehicle of Prem son of Makhan Lal Bishnoi enticed her and took her away with an intention to marry her.

It appears to be the case of the prosecution that the daughter of the complainant was found in the company of the petitioner at Bus-Stand, Bhuna on 8.2.2006. Her statement under Section 161 Cr.P.C. is also alleged to have been recorded on that very day (Annexure P-1) in which she stated

that the petitioner seduced her on the pretext of marriage and thereafter committed rape upon her.

The petitioner was arrested on 8.2.2007 and is in custody since then.

The petitioner's defence plea appears to be that he had an affair with the daughter of the complainant and she accompanied him for two days at different places and did not make a hue and cry at any point of time including when they were caught by her father/relatives at a thickly populated place, namely, Bus-Stand, Bhuna and it is only thereafter that she allegedly under the pressure of the family has falsely implicated the petitioner.

In the context of the petitioner's defence plea as noticed above, the determination of age of the prosecutrix would be a crucial factor. Relying upon the birth certificate (Annexure P-2), it is contended on behalf of the petitioner that the prosecutrix was born on 6.7.1988 and she was 17 years and 7 months old at the time of the alleged occurrence.

No external injury whatsoever has been found on the person of the prosecutrix in the medico legal examination.

Be that as it may, the prosecution has already examined the prosecutrix and eight more witnesses.

In these circumstances, there is no likelihood of tampering with and/or influencing the prosecution evidence at the hands of the petitioner.

Having heard learned counsel for the parties, without expressing any views on the merits of the case lest it should prejudice either of them and having regard to the total period already spent by the

petitioner in custody and all the other attending circumstances including the manner in which the occurrence is alleged to have taken place and further keeping in view the fact that the conclusion of trial will still take a considerably long period, this petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Fatehabad.

September 17, 2007
poonam

(SURYA KANT)
JUDGE